

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al., \*  
\*  
Plaintiffs, \*  
\*  
v. \* 05-CV-0329 GKF-PJC  
\*  
TYSON FOODS, INC., et al., \*  
\*  
Defendants. \*

\*\*\*\*\*

VIDEO DEPOSITION OF JACK WALTON

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ANSWERS AND DEPOSITION OF JACK WALTON, produced as a witness at the instance of the Defendants Cargill, Inc. and Cargill Turkey Production, LLC, taken in the above-styled and -numbered cause on the 8th day of April, 2009, A.D., beginning at 1:24 p.m., before Lisa Smith, a Certified Shorthand Reporter in and for the State of Texas, in the offices of Rhodes, Hieronymus, Jones, Tucker & Gable, PLLC, located at 100 West Fifth Street, Suite 400, Tulsa, Oklahoma, in accordance with the Federal Rules of Civil Procedure and the agreement hereinafter set forth.

Jack Walton

April 8, 2009

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A P P E A R A N C E S

FOR THE PLAINTIFFS:

MR. VAUGHN ISKANIAN

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FOR THE DEFENDANTS CARGILL, INC. AND CARGILL TURKEY  
PRODUCTION, LLC:

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FOR THE DEFENDANTS GEORGE'S, INC. AND GEORGE'S FARMS,  
INC.:

MS. JENNIFER LLOYD

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FOR THE DEFENDANT PETERSON FARMS, INC:

MR. CRAIG A. MIRKES

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ALSO PRESENT:

ANN DAVIS - Videographer

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1 P R O C E E D I N G S

2 (Exhibit No. 1 was marked.)

3 THE VIDEOGRAPHER: This is Tape No. 1 in the  
4 videotaped deposition of Jack Walton in the matter of State  
5 of Oklahoma versus Tyson Foods, being heard before the  
6 District Court in the United States of America, Case File  
7 No. 05-CV-0329 GKF-PJC. This deposition is being held at  
8 100 West Fifth, Suite 400, Tulsa, Oklahoma on 4/8/09 at  
9 1:24 p.m.

10 My name is Ann Davis. The court reporter is  
11 Lisa Smith.

12 Counsel, please introduce yourselves and  
13 affiliations and the witness will be sworn.

14 MS. HILL: Theresa Hill for Cargill, Inc. and  
15 Cargill Turkey Production, LLC.

16 MS. LLOYD: Jennifer Lloyd for George's Inc.

17 MR. MIRKES: Craig Mirkes for Peterson Farms.

18 MR. ISKANIAN: Vaughn Iskanian for the State  
19 from Riggs Abney law firm.

20 JACK WALTON,  
21 having been first duly sworn, testified as follows:

22 EXAMINATION

23 BY MS. HILL:

24 Q. Mr. Walton, again on the record, my name is  
25 Theresa Hill. We met for the first time a few minutes ago

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1 document any septic systems in the area?

2 A. No.

3 Q. Did you ever receive any instructions to observe  
4 and document wastewater treatment facilities in the area?

5 A. No.

6 Q. Did you have any instructions to observe and  
7 document commercial fertilizer use in the area?

8 A. No.

9 Q. Did you have any instructions to observe and  
10 document urban run-off in the area?

11 A. No.

12 Q. Did you document any urban run-off in the area?

13 A. No.

14 Q. Do you know what's referred to as urban run-off?

15 A. No.

16 Q. Do you have any idea what run-off of a field is?

17 A. I would assume it's like rain run-off into a water  
18 area once. And the -- whatever was in that field, be it  
19 litter or fertilizer or whatever, that it runs off in --  
20 kind of like the run-off in your yard at home.

21 Q. Did you observe any urban run-off or agricultural  
22 run-off?

23 A. Not that I recall.

24 Q. You weren't out there in the rain, were you?

25 A. Maybe once, maybe. And I don't even remember if

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1 it started raining after we were already there or if it was  
2 raining when we got there. I just remember driving through  
3 the muddy roads.

4 Q. Steve Steele testified that if it was a rainy day,  
5 that you generally stayed home. Is that your recollection?

6 A. Yes.

7 Q. And on this day that you ran into some rain or --  
8 or got a little bit wet and muddy, what were you doing that  
9 day; do you recall?

10 A. Again, the majority of my time over there was  
11 spent looking for active and inactive chicken houses. I  
12 would assume that.

13 Q. So you don't believe that you -- you observed any  
14 land application on this day that you saw -- had rain?

15 A. No, I don't think so.

16 Q. And do you have any independent recollection of  
17 observing any -- any run-off from any fields?

18 A. No.

19 Q. We can go through some notes later, but can you  
20 give me a ballpark of how many times you think you were out  
21 there making these observations?

22 A. If I had to guess, probably 20, maybe.

23 Q. In all of your time in the Watershed, did you  
24 observe anyone breaking the law?

25 MR. ISKANIAN: Object to form.

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1           A. Well, we weren't there to determine legality, so I  
2 really don't know. They could have been and I -- I did not  
3 know the -- whatever law they were breaking, so --

4           Q. (BY MS. HILL) In your 20 plus years as a Tulsa  
5 police officer, you can't tell me whether you saw someone  
6 breaking a law out there when you were making your  
7 observations in the Watershed?

8           MR. ISKANIAN: Object to form.

9           A. My -- I -- not -- not environmental law, no, I  
10 can't.

11          Q. (BY MS. HILL) I -- I asked about law generally.

12          A. Oh, in general? Oh, if you're talking about  
13 somebody not using their indicator when they turned onto a  
14 county road, sure, I can tell you that.

15          Q. Did you observe any contract growers doing  
16 anything that looked like a violation of the law to you?

17          MR. ISKANIAN: Object to form.

18          A. Again, we weren't there to determine legality.  
19 Was there something that was blatantly obvious? No. But I  
20 don't know, again, all the laws that pertain to poultry and  
21 turkeys and litter and -- that's not my area of expertise.

22          Q. (BY MS. HILL) I'm gonna skip around and give you  
23 Exhibit No. 4. We'll come back to 3.

24          A. All right.

25                 (Exhibit No. 4 was marked.)

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1 A. No.

2 Q. Anything unusual or out of the ordinary about your  
3 notes on this observation?

4 A. No.

5 Q. Did you note any improper activity in this  
6 observation?

7 MR. ISKANIAN: Object to form.

8 A. No.

9 Q. (BY MS. HILL) Let's go on to the next page.  
10 That's OK-PL-0002582. Were you involved in this  
11 observation?

12 A. Yes.

13 Q. Did you make the notes on this observation?

14 A. Yes.

15 Q. You noted the structures were in good condition?

16 A. Yes.

17 Q. Do you have any independent recollection of this  
18 observation, other than what is contained in the note here?

19 A. No.

20 Q. Do you recall whether you ever went back to the  
21 Rutherford Farm?

22 A. I don't recall.

23 Q. If you did, it would be in a note; is that  
24 correct?

25 A. I would think so, yes.

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1 Q. Is there anything unusual that you noticed about  
2 the Rutherford Farm here on Page 2582?

3 A. No.

4 Q. And you did not note anything improper?

5 MR. ISKANIAN: Object to form.

6 A. No.

7 Q. (BY MS. HILL) Let's go on to the next page, 2607.

8 Were you involved in this observation?

9 A. Yes.

10 Q. And what did you observe?

11 A. That there was no public access to the farm and we  
12 took a picture of the sign, which I'm sure denoted it as a  
13 turkey farm, which is why I wrote turkey farm. And we  
14 didn't -- we didn't encroach on private property to try to  
15 get a photo of a specific building. We stayed on public  
16 access.

17 Q. So you really didn't have any observation here; is  
18 that correct?

19 A. No. I'm pretty sure we -- we took a photo from an  
20 aerial photograph, again, that, you know, pin-pointed an  
21 area and then we went to that area. And since we couldn't  
22 get close to it, we took a picture of the sign showing that  
23 it was a turkey farm and moved on.

24 Q. Okay. Let's go on to the next page, 2652. Were  
25 you involved in this observation?



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1 Q. Did you note anything improper?

2 MR. ISKANIAN: Object to form.

3 A. Again, not knowing all the litter disposal laws, I  
4 wouldn't know what was proper and what was improper.

5 Q. (BY MS. HILL) So we're not gonna get any  
6 testimony from you at any time about how litter should be  
7 used, disposed or placed?

8 A. No. Because that wasn't my job of going over  
9 there.

10 Q. Okay. Let's go on to the next page, 3712.

11 A. Okay.

12 Q. You were involved in this observation; is that  
13 correct?

14 A. Yes.

15 Q. And did you make the notes on this observation?

16 A. Yes.

17 Q. Do you have any independent recollection of this  
18 observation?

19 A. No.

20 Q. If you returned to Swearingen Farm at another  
21 time, would there be a note on it?

22 A. There may not be a note on this form, but there  
23 would be a note somewhere on a form that we returned to it.

24 Q. Do you recall returning to the Swearingen Farm?

25 A. No.

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1 areas?

2 A. Personally, no.

3 Q. Did you investigate whether -- did you investigate  
4 how much, if any, poultry litter had been applied on those  
5 areas?

6 A. No.

7 Q. Did you investigate whether commercial fertilizer  
8 had been applied on those areas?

9 A. No.

10 Q. Do you have any recollection of farm operations  
11 associated with George's, Inc. from your observations?

12 A. No.

13 Q. Is it fair to say you're unable to testify that  
14 you witnessed any unlawful activity by George's, Inc.?

15 MR. ISKANIAN: Object to form.

16 A. It's fair to say that if there was illegal  
17 activity, that I didn't know whatever laws as far as  
18 poultry and litter go, that I knew that it was illegal.  
19 There could have been illegal activity that I did not  
20 recognize, but it's fair to say that I didn't know it was  
21 illegal if it was occurring.

22 Q. (BY MS. LLOYD) Did you witness any activity by  
23 George's, Inc. or its representatives or contract growers  
24 during your time there?

25 A. I'm sure I did.

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1 Q. Do you have any recollection of that at this time?

2 A. No. It would be in the notes if I had -- if I  
3 noticed any activity, legal or illegal. What I'm trying to  
4 say is it could have -- something that I saw could have  
5 been illegal, but I didn't know it was illegal. Do you see  
6 what I'm saying? I'm not trying to be difficult.

7 Q. No. I see what you're saying. So you cannot  
8 testify that you saw any unlawful activities on your  
9 observations; is that correct?

10 MR. ISKANIAN: Object to form.

11 A. No, I cannot testify that I saw any unlawful  
12 activity because I didn't know it was unlawful if it was.  
13 So I see what you're saying, but I don't know if it was  
14 illegal or not.

15 Q. (BY MS. LLOYD) Did you see any activity that you  
16 think might be illegal?

17 MR. ISKANIAN: Object to form.

18 A. Possibly.

19 Q. (BY MS. LLOYD) As a police officer, do you feel  
20 an obligation to report illegal activity when you see it?

21 MR. ISKANIAN: Object to form.

22 A. Well, we -- we weren't there to determine  
23 legality. We were just there to document.

24 Q. (BY MS. LLOYD) I know. That wasn't my question.

25 A. And also, it's the State of Arkansas, not the

1 MR. ISKANIAN: Object to form.

2 A. I think it was just me trying to document  
3 everything that was right around the houses.

4 Q. (BY MR. MIRKES) Okay. Anything else in these  
5 photographs that appear to be improper or unlawful?

6 MR. ISKANIAN: Object to form.

7 A. Other than my focus skills, no, there isn't.

8 Q. (BY MR. MIRKES) I may have already asked this.  
9 Did -- you -- you visited in your time in the Watershed,  
10 several Peterson contract grower farms; is that correct?

11 A. I would think so, yes.

12 Q. As you sit here today, do you have any  
13 recollection of visiting those farms?

14 A. No.

15 Q. Do you ever remember seeing a Peterson sign while  
16 in the Watershed?

17 A. I can't specifically point you to a specific  
18 location, but yes, we saw several signs.

19 Q. Did you see any unlawful activity at any of those  
20 contract grower farms?

21 MR. ISKANIAN: Object to form.

22 A. Again, not knowing what is unlawful in that area,  
23 I don't know.

24 MR. MIRKES: I'm gonna pass the witness.

25 MS. HILL: I thought I was done. I have one